

CHECKLIST ENVIRONMENTAL ASSESSMENT

Project Name:	Kyler Land Banking Nominations – 2010 review
Proposed Implementation Date:	2010
Proponent:	This tract was nominated by the lessees, Edward & Mary Kyler
Location:	Sale # 579; Lots 1, 2, 3, & 4 (i.e. NE ¼) sec. 36, T18N, R3W
County:	Cascade County
Trust:	Common School Trust

I. TYPE AND PURPOSE OF ACTION

Offer for Sale at Public Auction, 165.31 acres of state land currently held in trust for the benefit of Common Schools. Revenue from the sale would be deposited in a special account, with monies from other sales around the State, to purchase replacement lands meeting acquisition criteria related to legal access, productivity, potential income and proximity to existing state ownership which would then be held in trust for the benefit of the same Trust. The proposed sale is part of a program called Land Banking authorized by the 2003 Legislature, and updated by the 2007 and 2009 Legislatures. The purpose of the program is for the Department of Natural Resources and Conservation to overall, diversify uses of land holdings of the various Trusts, improve the sustained rate of return to the Trusts, improve access to state trust land and consolidate ownership.

II. PROJECT DEVELOPMENT

1. PUBLIC INVOLVEMENT, AGENCIES, GROUPS OR INDIVIDUALS CONTACTED:

Provide a brief chronology of the scoping and ongoing involvement for this project.

- Legal notices were published in the Great Falls Tribune and the Helena IR on 2/7 & 17/2010.
- Direct mailings were made to lessees, adjacent land owners, County Commissioners, State Legislators (from the involved Districts and who were associated with the legislation), and a host of organizations and individuals who had expressed previous interest in this process. A full listing of contacts is attached as Appendix B.
- The tracts were also posted on the DNRC web page at, <http://dnrc/mt.gov/TLMSPublic/LandBanking/LBTest.aspx>

2. OTHER GOVERNMENTAL AGENCIES WITH JURISDICTION, LIST OF PERMITS NEEDED:

No other governmental agencies have jurisdiction over this proposal.

3. ALTERNATIVES CONSIDERED:

Alternative A (No Action) – Under this alternative, the State retain the entire existing land ownership pattern and would not sell the tract included in this proposal.

Alternative B (the Proposed action) – Under this alternative, the Department would request and recommend approval by the Land Board to sell the nominated tract, encompassing a total area of 165.31 acres. If approved by the Board, the sale(s) would be at public auction, subject to the requirements found in Title 77, Chapter 2, Part 3 of the Montana Codes Annotated. The income from the sale would be pooled with other land sale receipts from across the State to fund the purchase of other state land, easements, or improvements for the beneficiaries of the respective trusts. *(The State would then review available lands for sale which would generally have access and an increased potential for income. A separate public scoping and review would be conducted when a potentially suitable parcel was found. It is not possible for this analysis to make any direct parcel to parcel comparisons.)*

An alternative previously considered was a land exchange with this proponent, for 338 nearby acres. This proposal was dismissed because guaranteed public access was not available.

III. IMPACTS ON THE PHYSICAL ENVIRONMENT

- *RESOURCES potentially impacted are listed on the form, followed by common issues that would be considered.*
- *Explain POTENTIAL IMPACTS AND MITIGATIONS following each resource heading.*
- *Enter "NONE" If no impacts are identified or the resource is not present.*

4. GEOLOGY AND SOIL QUALITY, STABILITY AND MOISTURE:

Consider the presence of fragile, compactable or unstable soils. Identify unusual geologic features. Specify any special reclamation considerations. Identify any cumulative impacts to soils.

A variety of soil types are found across these tracts. The proposal does not involve any on the ground disturbance, so there are no soil effect differences between the alternatives. The State does own, and would retain ownership of, all mineral rights. The purchaser of the surface does not acquire the legal right to place restrictions on development of the mineral estate. There is an existing Oil & Gas lease on these lands. This Oil & Gas lease covers not just lots 1 – 4 (where the state owns the surface), but also sub-surface state ownership in lots 5 – 8 and the SW ¼ (i.e. all of section 36 except the NW ¼).

5. WATER QUALITY, QUANTITY AND DISTRIBUTION:

Identify important surface or groundwater resources. Consider the potential for violation of ambient water quality standards, drinking water maximum contaminant levels, or degradation of water quality. Identify cumulative effects to water resources.

There are only ephemeral drainages on this tract, no surface water.

6. AIR QUALITY:

What pollutants or particulate would be produced? Identify air quality regulations or zones (e.g. Class I air shed) the project would influence. Identify cumulative effects to air quality.

The proposal does not include any on-the-ground activities, or changes to activities. No effects to air quality would occur.

7. VEGETATION COVER, QUANTITY AND QUALITY:

What changes would the action cause to vegetative communities? Consider rare plants or cover types that would be affected. Identify cumulative effects to vegetation.

Vegetation may be affected by numerous land management activities including livestock grazing, development, wildlife management or agricultural use. It is unknown what land use activities may be associated with a change in ownership; however the vegetation on this tract is typical of land throughout the vicinity and there are no known rare, unique cover types or vegetation on the tract. Range conditions are currently rated excellent. Grazing capacity is currently rated at 33 AUM.

There are approximately 126 forested acres on the tract (76% of the tract), with a gross standing volume of ~ 502 MBF. Species are a mix of Douglas-fir and some Ponderosa Pine. Access for forest management is hampered by steep terrain and rock outcrops. Locations for road construction and landing areas are limited. Forest management complying with current Forestry Best Management Practices (BMPs) would yield significantly less harvest opportunity.

The proposal does not include any on-the-ground activities, or changes to activities and therefore we do not expect direct or cumulative effects would occur to vegetation as a result of the proposal.

8. TERRESTRIAL, AVIAN AND AQUATIC LIFE AND HABITATS:

Consider substantial habitat values and use of the area by wildlife, birds or fish. Identify cumulative effects to fish and wildlife.

These lands provide habitat typical of surrounding lands for a variety of species common to this area, Elk, Mule Deer, Whitetail Deer, upland game birds, raptors, coyote, fox, badger, songbirds, etc.

Big Game Species (Mule Deer, Whitetail Deer, Antelope, Black Bear and Elk) – Any of these big game species may occupy these land banking tracts, and likewise all of the surrounding private lands. In some cases use may be more prevalent in one season or the other, or may occur generally throughout the year. The proposed land banking sale does not include any on-the-ground management changes so no direct, indirect or cumulative effects are expected to big game species.

9. UNIQUE, ENDANGERED, FRAGILE OR LIMITED ENVIRONMENTAL RESOURCES:

Consider any federally listed threatened or endangered species or habitat identified in the project area. Determine effects to wetlands. Consider Sensitive Species or Species of special concern. Identify cumulative effects to these species and their habitat.

A review of Natural Heritage data through NRIS was conducted, as well as tract specific requests for concerns being made to MT FWP.

NRIS search indicated nearby occurrences of Bald Eagle and Greater Short-horned Lizard. With no nearby water, and no nearby documented nesting sites, any bald Eagle use would likely be transient. This tract is at the fringe of mapped Greater Short-horned Lizard range, and would contain little potential prairie/sage brush habitat which is the typical vegetation for this lizard. No direct, indirect or cumulative effects are expected to either of these species of concern.

10. HISTORICAL AND ARCHAEOLOGICAL SITES:

Identify and determine effects to historical, archaeological or paleontological resources.

The kinds and quantities of cultural and paleontologic resources on the parcels nominated for Land Banking are currently unknown on most tracts. However, as part of the review for the land exchange alternative, this tract was reviewed by DNRC archaeologist Pat Rennie on 2/17/2005.

The DNRC archaeologist conducted a Class III intensity level cultural and paleontological resources inventory of the NE ¼ Section 36, T18N R3W in 2005. Despite a detailed examination of this parcel of land, no cultural or fossil resources were identified. Further, a review of the corresponding geological map indicates that neither Judith River nor Hell Creek Formations are present on, or beneath, the subject state tract. No additional archaeological or paleontological investigative work is recommended, and disposition of the state parcel will have *No Effect* to *Antiquities* as defined under the Montana State Antiquities Act. A formal report of findings has been prepared and is on file with the DNRC and the Montana State Historic Preservation Officer.

11. AESTHETICS:

Determine if the project is located on a prominent topographic feature, or may be visible from populated or scenic areas. What level of noise, light or visual change would be produced? Identify cumulative effects to aesthetics.

The tract is visible, or partially so, from other adjacent lands and from the public roadway (~ ¼ mile west of the tract). The state land does not provide any unique scenic qualities not also provided on adjacent private lands. The proposal does not include any on-the-ground activities, so there would be no change to the aesthetics in either alternative.

12. DEMANDS ON ENVIRONMENTAL RESOURCES OF LAND, WATER, AIR OR ENERGY:

Determine the amount of limited resources the project would require. Identify other activities nearby that the project would affect. Identify cumulative effects to environmental resources.

There are 5,160,530 acres of Trust land surface ownership in Montana (TLMS power search, 3/8/2010). Approximately 4,673,166 acres are in the Common School Trust, statewide. There are approximately 79,903.6 acres of Trust Land in Cascade County. This proposal includes 165.31 acres of Common School Trust.

There are additional tracts of state land currently under consideration for sale through the Land Banking Program on a statewide basis. Each of these tracts is at a different stage in their review process, and is being examined under separate analysis. The authorizing legislation has placed a cap on the total land banking sales of 250,000 acres statewide. As of the end of December 2009, sold lands total 42,303 acres (94.6% were isolated) and purchased lands total 31,588 acres (all accessible). This represents a net decrease part way through the program of 10,715 acres, though there is continual ongoing review for the purchase of replacement properties.

The potential transfer of ownership would not have any impact or demands on environmental resources of land water, air or energy.

13. OTHER ENVIRONMENTAL DOCUMENTS PERTINENT TO THE AREA:

List other studies, plans or projects on this tract. Determine cumulative impacts likely to occur as a result of current private, state or federal actions in the analysis area, and from future proposed state actions in the analysis area that are under MEPA review (scoped) or permitting review by any state agency.

Grazing Lease Range evaluations have been conducted on these tracts and are in the Department files.

The Helena Unit is currently reviewing 3 tracts for land banking. (This tract, one in Meagher County which already has preliminary approval for sale by the Land Board, and one tract in the N. Fork of Stickney creek which is just being scoped for initial comments.) The total acreage of these three proposals is 1497.93 acres.

If the decisions result in the sale of all of these proposed lands, the total lands sold statewide would increase from ~42303 acres to ~43801 acres (less than 18% of the amount currently allowed for sale under this Law).

IV. IMPACTS ON THE HUMAN POPULATION

- *RESOURCES potentially impacted are listed on the form, followed by common issues that would be considered.*
- *Explain POTENTIAL IMPACTS AND MITIGATIONS following each resource heading.*
- *Enter "NONE" if no impacts are identified or the resource is not present.*

14. HUMAN HEALTH AND SAFETY:

Identify any health and safety risks posed by the project.

No impacts to human health and safety would occur as a result of the proposal.

15. INDUSTRIAL, COMMERCIAL AND AGRICULTURE ACTIVITIES AND PRODUCTION:

Identify how the project would add to or alter these activities.

The following leases exist upon this proposed land banking tract.

County	Legal	Acres	Uses
Cascade	Lots 1, 2, 3, 4 -36, T18N, R3W	165.31	L-6236 grazing lease
Cascade	Lots 1, 2, 3, 4 -36, T18N, R3W (plus other sub-surface in this section)	165.31	OG-39364-09 Oil and Gas lease

This proposal does not include any specific changes to these activities, except that DNRC would no longer be leasing the grazing. Since the State would retain the sub-surface mineral ownership, the Oil & Gas lease would continue there, with no changes.

No direct or cumulative impacts are anticipated as a result of the proposal.

16. QUANTITY AND DISTRIBUTION OF EMPLOYMENT:

Estimate the number of jobs the project would create, move or eliminate. Identify cumulative effects to the employment market.

The proposal would have no affect on quantity and distribution of employment.

17. LOCAL AND STATE TAX BASE AND TAX REVENUES:

Estimate tax revenue the project would create or eliminate. Identify cumulative effects to taxes and revenue.

As State Trust lands, these properties are tax exempt. If the parcel in this proposal is sold, and use continues unchanged, Cascade County would receive additional property tax revenues as shown below. *(Estimated tax revenues were provided by the Cascade Co. Treasurer's Office on 3/30/2010.)*

Legal	Est. tax revenue
Lots 1, 2, 3, 4 sec. 36, T18N, R3W	\$445.83

18. DEMAND FOR GOVERNMENT SERVICES:

Estimate increases in traffic and changes to traffic patterns. What changes would be needed to fire protection, police, schools, etc.? Identify cumulative effects of this and other projects on government services

No traffic changes would be anticipated. Wildland fire protection is currently provided for these Trust lands through the County Co-operative Fire Agreement with Cascade County. If sold, these lands would continue to receive wildland fire protection from the County (parcel is in the Cascade FSA).

19. LOCALLY ADOPTED ENVIRONMENTAL PLANS AND GOALS:

List State, County, City, USFS, BLM, Tribal, and other zoning or management plans, and identify how they would affect this project.

There are no zoning or other agency management plans affecting these lands.

20. ACCESS TO AND QUALITY OF RECREATIONAL AND WILDERNESS ACTIVITIES:

Identify any wilderness or recreational areas nearby or access routes through this tract. Determine the effects of the project on recreational potential within the tract. Identify cumulative effects to recreational and wilderness activities.

State Trust lands which are legally accessible to the recreationist are available for general recreational use with the purchase of a General Recreational Use License. Through agreement with FWP, activities associated with hunting, fishing, and trapping are allowed on legally accessible state lands through the purchase of the Conservation license. Other types of recreational use require either a "State Land Recreational Use License", or a "Special Recreational Use License", depending upon the type of use.

In general, there a 4 methods of gaining legal access for recreational purposes.

1. Access via a public road or easement for public access.
2. Access via a recreationally navigable river.
3. Access via other adjacent public lands, when there is a legal access to those lands.
4. Access via permission of an adjoining landowner.

The lands in section 36, T18N, R3W are fully surrounded by private lands, and may only be accessed for recreational uses with the adjacent land owner's permission.

The Department received comment from the Department of Fish, Wildlife & Parks (FWP) indicating that had no concerns regarding this potential land ownership change.

If the lands are sold, access for recreational purposes would only be conducted with permission of the new landowner. It is anticipated, and a program objective, the replacement lands purchased with the land banking funds be accessible to the public

As of the end of December 2009, 94.6% of the acres sold through this program have been inaccessible and 100% of the acres purchased have public access. There is however no guarantee that lands which would benefit the Trust would be available for purchase by the DNRC in this area, or even in this County.

21. DENSITY AND DISTRIBUTION OF POPULATION AND HOUSING:

Estimate population changes and additional housing the project would require. Identify cumulative effects to population and housing.

The proposal does not include any changes to housing or developments. No effects are anticipated.

22. SOCIAL STRUCTURES AND MORES:

Identify potential disruption of native or traditional lifestyles or communities.

There are no native, unique or traditional lifestyles or communities in the vicinity that would be impacted by the proposal.

23. CULTURAL UNIQUENESS AND DIVERSITY:

How would the action affect any unique quality of the area?

The State Trust lands in this proposal are currently managed for grazing uses as part of a larger pasture of mixed state and private land. The State lands are generally indistinguishable from the adjacent private lands, with no unique quality.

The potential sale of the state land would not directly or cumulatively impact cultural uniqueness or diversity. It is unknown what management activities would take place on the land if ownership was transferred.

24. OTHER APPROPRIATE SOCIAL AND ECONOMIC CIRCUMSTANCES:

Estimate the return to the trust. Include appropriate economic analysis. Identify potential future uses for the analysis area other than existing management. Identify cumulative economic and social effects likely to occur as a result of the proposed action.

An appraisal of the property value has not been completed to date. **The following estimations are based upon the Department fee schedule estimates of land values, by County and land type.** Under DNRC rules, an appraisal would be conducted if preliminary approval to proceed is granted by the Board of Land Commissioners. If approved for sale, the revenue generated would be combined with other revenue in the Land Banking Account to purchase replacement property for the benefit of the Trust. It is anticipated the replacement property would have legal access and be adjacent to other Trust lands which would provide greater management opportunities and income. If replacement property was not purchased prior to the expiration of the statute, the revenue would be deposited into the permanent trust for investment.

Fee Schedule Land Value and Income Per Acre

Fee Schedule land value/acre	Leased use	2009 income	Income per acre whole tract average
\$775/ ac. on 165.31 ac	Grazing lease	\$230.01 on 33 AUM (0.20 AUM/ac.)	\$1.39/ac.
	O & G lease (the lease here covers this part of section and also sub-surface in lots 5 – 8 and the SW ¼)	\$247.97 on 165.31 ac.	\$1.50/ac. (the rental on this lease will increase to \$2.75/ac in year 6 and to \$4.00/ac. in years 7 – 10)

The statewide stocking rate for grazing land on 4.3 million acres averages .23 AUMs per acre or a total of 978,462 AUMs (2009 DNRC Annual Report). 2009 statewide grazing land net revenue was \$7.163 million for an average income of \$1.66 per acre (2009 DNRC Annual Report).

The land in this proposal has a grazing income of \$1.39/ac., which is below the statewide average of \$1.66/ac. The \$1.50/ac. Oil & Gas lease rate is the minimum O & G lease rate under current Law.

The commercial timber value of the parcel is marginal due to the location of the merchantable stands in the drainage bottoms, relatively poor quality timber and the presence of rock outcrops. Development of the parcel for commercial harvest would require extensive road construction on adjacent private lands and line skidding on steep slopes.

Another method to compare the productivity of a tract is to consider the return on the asset value. The 2009 Montana State Lands Return on Assets FY 2009 report indicates that the overall net income per asset in the Central Land Office was 0.43%. *(Based on the total net income from all Trust land activities in the CLO divided by the estimated total land value in the CLO.)* The gross 2009 income from this tract (\$477.98) divided by the estimated value of this tract based on fee schedule (\$128,115.25) would be 0.37%. This gross income per asset value is already below the CLO average net income per asset value. Subtracting CLO operating expenses would yield an even lower percentage. *(The grazing portion of this estimate contributes 0.18%, and is the return which would be foregone if this surface acreage is sold. The current and escalating O & G lease income would continue with the subsurface retained estate.)*

EA Checklist Prepared By:	Name: D.J.Bakken	Date: 3/30/2010
	Title: Helena Unit Manager	

V. FINDING

25. ALTERNATIVE SELECTED:

I have selected I have selected the Proposed Alternative B, recommend the tract receive preliminary approval for sale and continue with the Land Banking process.

26. SIGNIFICANCE OF POTENTIAL IMPACTS:

I have evaluated the comments received and potential environment affects and have determined significant environmental effects would not result from the proposed land sale. This parcel does not have any unique characteristics, critical habitat or environmental conditions indicating the tract should necessarily remain under management by the Department of Natural Resources and Conservation. There are no indications they would

produce substantially greater revenue or have substantially greater value to the trust in the near future.

The grazing lease is below the statewide average productivity and income for state leased land. The annual grazing lease income for the parcel has been approximately \$230.00 per year. The timber resources on the parcel are low value and difficult to manage due to terrain limitations and access difficulties. Management of the timber would require extensive development on adjacent private land.

There is an oil and gas lease on the parcel which has generated approximately \$250 of income a year however, the mineral estate would remain in state ownership and the lease would not be affected by the sale. The sale of the surface estate would result in a split estate from the mineral resource, however the mineral estate is already split from the surface estate on the majority of this parcel. The state owns 487.93 acres of mineral estate and only 165.31 surface acres in the section. In addition, there are no producing wells in the vicinity on either state or private lands.

This parcel is surrounded by private land which control access to the state land and if sold are likely to be managed in a manner consistent with surrounding lands.

27. NEED FOR FURTHER ENVIRONMENTAL ANALYSIS:

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More Detailed EA

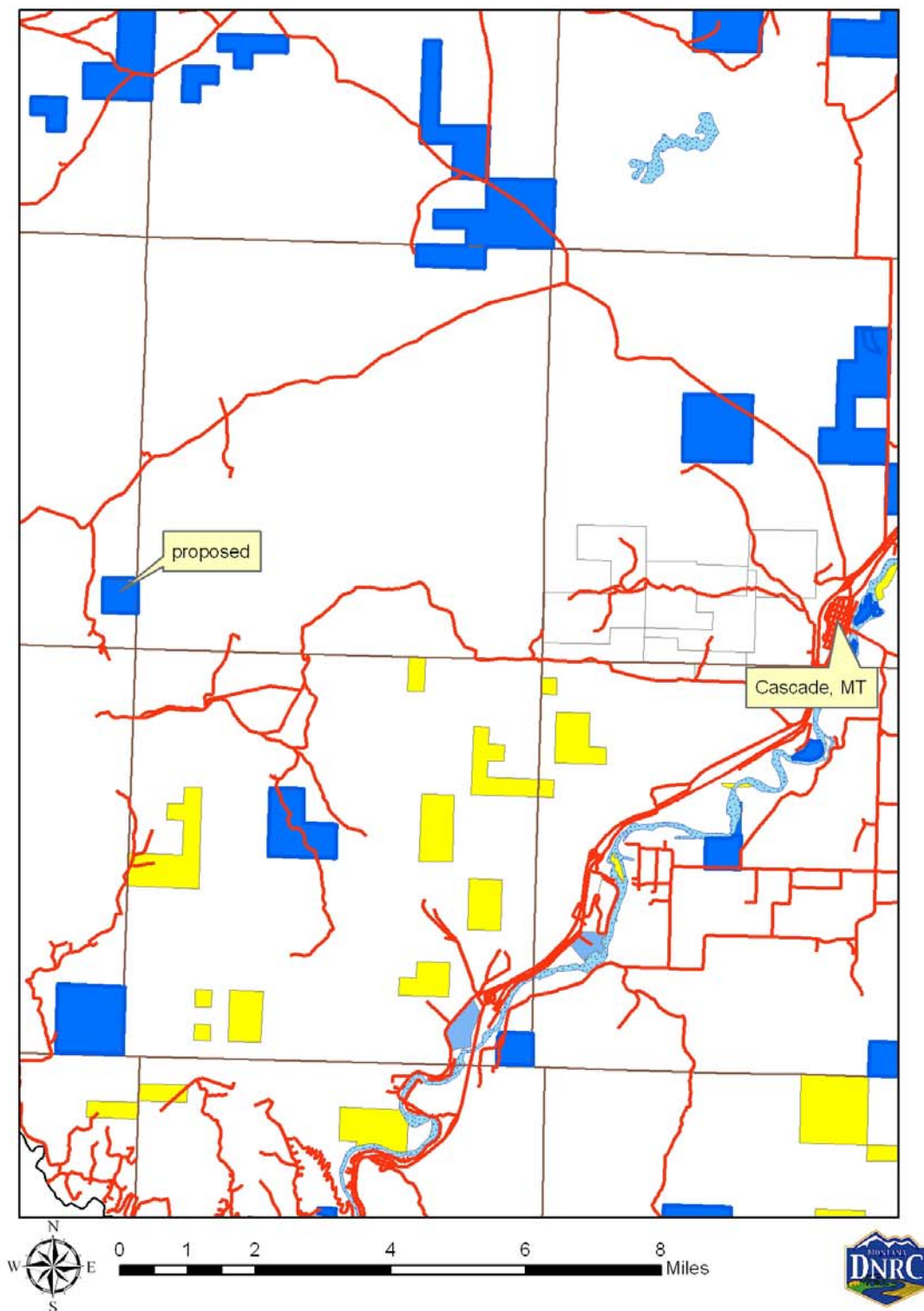
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No Further Analysis

EA Checklist Approved By:	Name: Garry Williams
	Title: Area Manager, Central Land Office
Signature: 	Date: 9/27/2010

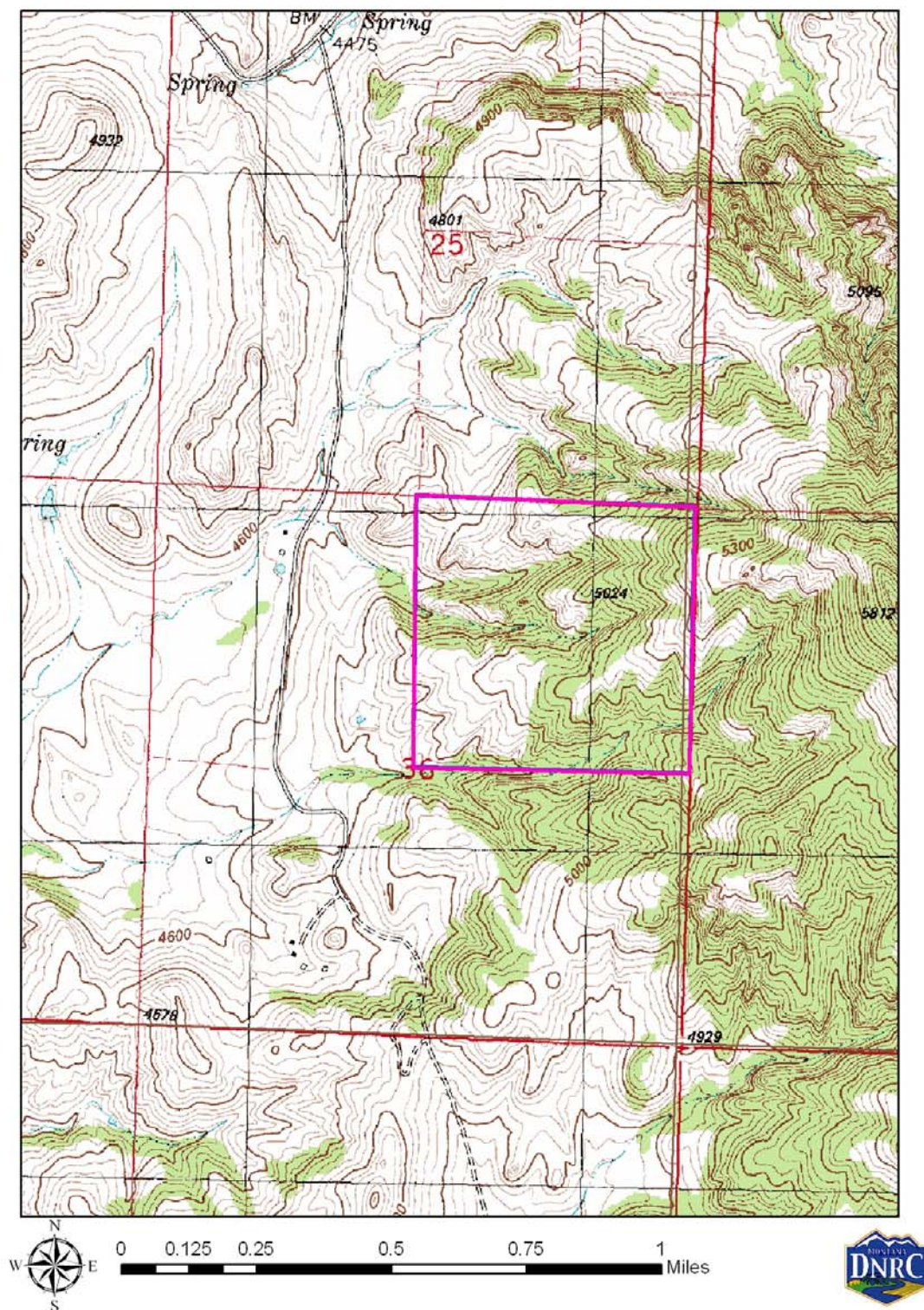
Kyler Land Banking

Lots 1, 2, 3, & 4, sec. 36, T18N, R3W



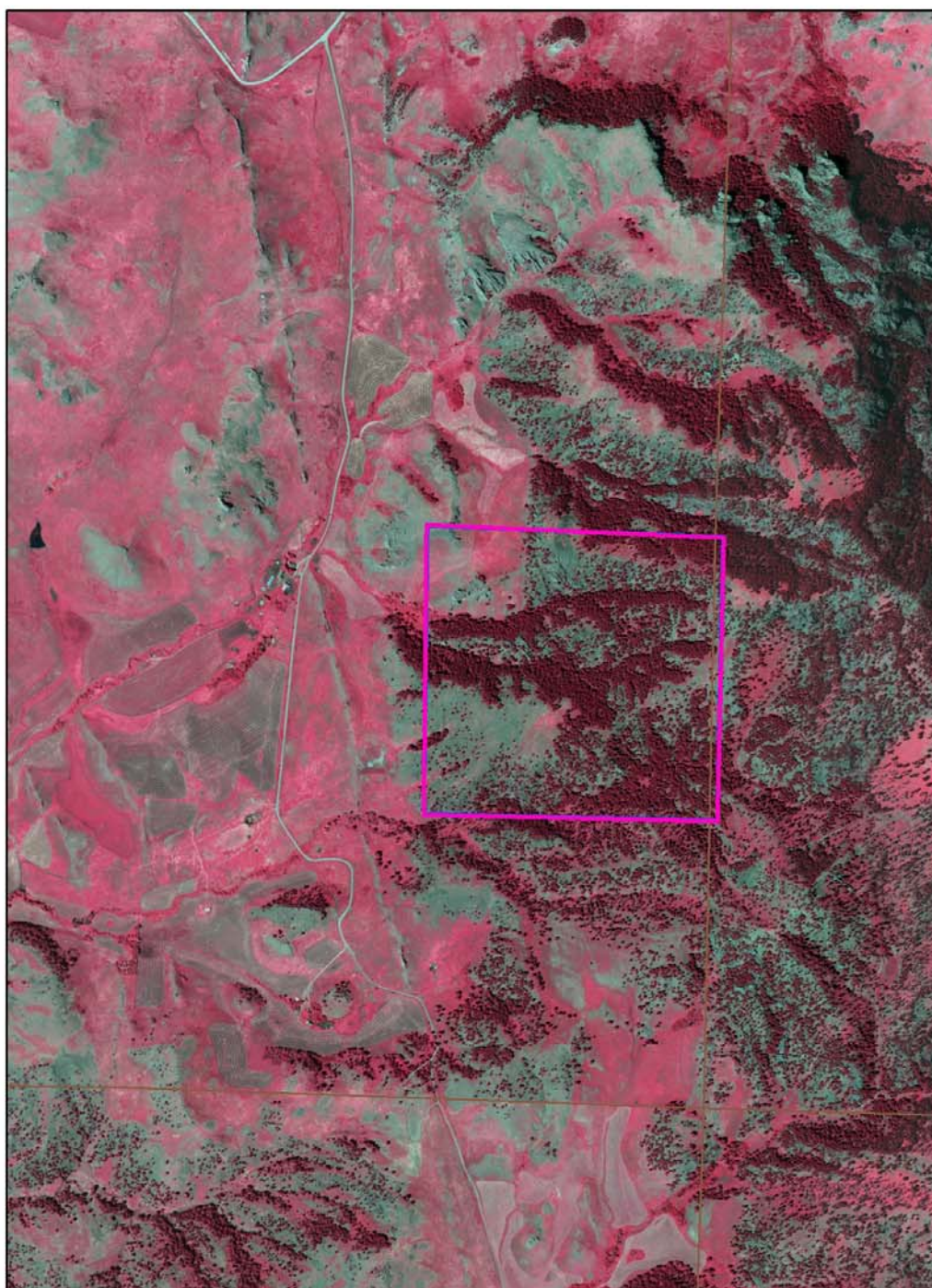
Kyler Land Banking

Lots 1, 2, 3, & 4, sec. 36, T18N, R3W



Kyler Land Banking

Lots 1, 2, 3, & 4, sec. 36, T18N, R3W



0 0.125 0.25 0.5 0.75 1 Miles



**Land Banking Contacts
Kyler land Banking Proposal**

Ann Hedges Montana Environmental Information Center Post Office Box 1184 Helena, MT 59624	Nancy Schlepp Montana Farm Bureau Federation 502 South 19 th , Suite 4 Bozeman, MT 59715
Bill Orsello/Stan Frasier Montana Wildlife Federation Post Office Box 1175 Helena, MT 59624	Hemus, Ltd. 6565 West Loop South, Suite 555 Bellaire, TX 77401-3513 sjhemus@aol.com
Bob Vogel Montana School Boards Association 863 Great Northern Boulevard Helena, MT 59601	Ray Marxer Matador Cattle Company 9500 Blacktail Road Dillon, MT 59725
Daniel Beruge 27 Cedar Lake Drive Butte, MT 59701	Rosi Keller University of Montana 32 Campus Drive Missoula, MT 59812-0001
Ellen Simpson Montana Wood Products Post Office Box 1149 Helena, MT 59624	Denise Juneau, Superintendent Office of Public Instruction P.O. Box 202501 Helena, MT 59620-2501
Harold Blattie Montana Association of Counties 2715 Skyway Drive Helena, MT 59601	Dept. of Fish, Wildlife & Parks Attn: Hugh Zackheim Post Office Box 200701 Helena, MT 59620-0701
Jack Atcheson, Sr. 3210 Ottawa Butte, MT 59701	Gary Bertilotti – via email Graham Taylor – via email
Janet Ellis Montana Audubon Society Post Office Box 595 Helena, MT 59624	Department of Environmental Quality Tom Ellerhoff P.O. Box 200901 Helena, MT 59620-0901
Leslie Taylor MSU Bozeman Post Office Box 172440 Bozeman, MT 59717-0001	Department of Transportation Attn: Shane Mintz P.O. Box 201001 Helena, MT 59620-1001

Cascade County Commissioner
Joe Briggs
325 Second Avenue North
Great Falls, MT 59404

Cascade County Commissioner
Bill Salina
325 Second Avenue North
Great Falls, MT 59404

Cascade County Commissioner
Peggy Beltrane
325 Second Avenue North
Great Falls, MT 59404

House District 19
Mike Milburn
276 Chestnut Valley Road
Cascade, MT 59421

Senate District 10
Brad Hamlett
Post Office Box 49
Cascade, MT 59421

Sonya Germann
MEPA Coordinator
Montana DNRC
Via email

Ed and Mary Kyler
96 Trout Creek Lane
Cascade, MT 59421

Barbara Harris
P.O. Box 194
Cascade, MT 59421

Kirk Leikam
Minerals Management Bureau
Montana DNRC
Via email

Mike O'Herron
Planning Section Supervisor
Montana DNRC
via email

Will Wood
Assessment Program Manager
Montana DNRC - FAMB
Via email

Pat Rennie
Montana DNRC
Via email